

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re:

GMS SUNSET LLC,

Debtor.

Case No. 23-23-11315-KHK

Chapter 11

**OBJECTION OF THE ACTING UNITED STATES TRUSTEE
TO DEBTOR'S MOTION TO AUTHORIZE USE OF CASH COLLATERAL**

Gerard R. Vetter, the Acting United States Trustee for Region 4 (the "U.S. Trustee"), by and through his undersigned counsel, hereby files this objection to the Motion to Authorize Use of Cash Collateral (the "Motion") filed by GMS Sunset LLC ("Debtor") (Doc. No. 18). In support of his objection, the U.S. Trustee represents and alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. § 1408.

2. Pursuant to 11 U.S.C. § 307, the U.S. Trustee for Region 4, which includes the Commonwealth of Virginia, under 28 U.S.C. § 581(a)(7), has standing to appear and be heard on any issue in a case or proceeding under the Bankruptcy Code.

3. Pursuant to 28 U.S.C. § 586(a)(3), the U.S. Trustee is statutorily obligated to monitor the administration of cases commenced under the Bankruptcy Code, 11 U.S.C. § 101 *et seq.*

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BACKGROUND

4. On August 17, 2023, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

5. On September 4, 2023, the Debtor filed its Motion to Authorize Use of Cash Collateral.

BASIS FOR OBJECTION

6. The Debtor requests authority to use cash collateral in its ordinary business operations in order to remain in possession of its property and continue business activity. However, the Motion lacks important information that is necessary for the U.S. Trustee to evaluate whether the request is appropriate under the circumstances. First, it is unclear from the Motion what the Debtor is proposing as adequate protection for the lender. If the Debtor will propose to make adequate protection payments to the lender, the U.S. Trustee is not able to determine whether the Debtor has sufficient income to make any adequate protection payments to the lender. Second, the Debtor does not provide any terms, including duration, of the proposed use of the cash collateral. Third, no budget is attached to the Motion, and the Debtor has not provided any information as to its monthly revenue or monthly expenses. Again, the U.S. Trustee has no way of determining whether the use of cash collateral is necessary and warranted under the circumstances.

7. Moreover, the U.S. Trustee has not been provided with any other requested documents to determine (and generally corroborate) a Debtor's ability to make adequate protection payments such as bank statements or profit loss statements. The U.S. Trustee requires additional information to determine whether the relief requested in the Motion is appropriate.

WHEREFORE, the Acting United States Trustee respectfully requests that this Court deny approval of the Motion.

Dated: September 12, 2023

Gerard R. Vetter
Acting United States Trustee, Region Four

By: /s/ Kristen S. Eustis
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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2023, I electronically filed the foregoing Objection with the Clerk of the Court and served it on the parties listed below who are registered Users of the CM/ECF system, by the Notice of Electronic filing generated by the Court's ECF system:

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I further certify that on September 12, 2023, a copy of the foregoing Objection was served by first class United States mail, postage prepaid to the following:

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/s/ Robert W. Ours
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Paralegal Specialist